

## Adam Kern

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**From:** Kari Parks <kparks@gusraekaplan.com>  
**Sent:** Monday, February 13, 2023 8:18 PM  
**To:** Capozzi, Timothy (USANYS); Adam Kern  
**Cc:** Kochevar, Steven (USANYS); Martin Kaplan; Mearns, Geoffrey (USANYS) [Contractor]; Victor Wang  
**Subject:** Re: U.S. v. Munshani, 22cr215

### CAUTION - EXTERNAL:

Dear Mr. Kern,

Defendant Suresh Munshani respectfully requests the following changes to the Court's proposed **Jury Instructions**:

1. p. 15, lines 6–7: Remove the phrase "explicitly or implicitly."
2. p. 15, line 15: We believe that it is incorrect to instruct the jury that the first element is satisfied if the jury finds "it existed for any time within the charged period" because the charged period is "2011 and continued up to in or around 2018." Because a five-year statute of limitations applies to this charge, if, for example, the jury found that a conspiracy began in 2013 and ended in 2015, it cannot convict Mr. Munshani. We propose replacing "for any time within the charged period" with "for any time between April 11, 2017 and December 31, 2018."
3. p. 18, lines 9-10: Same suggestion as #2.
4. p. 2, line 6: We believe that "which you may request if you would like" may have been included mistakenly, since the previous phrase states that "we will send into the jury room all the exhibits that were admitted into evidence."

In addition, Mr. Munshani proposes the following for the **Verdict Form**:

### I. Conspiracy to Commit Wire Fraud

1. Did the Government prove, beyond a reasonable doubt, a conspiracy to steal from Protegrity that existed between April 11, 2017 and December 31, 2018?

[For the above question, we quoted the draft jury instruction on page 12.]

2. If your answer to Question 1 is "Yes:" Did the Government prove, beyond a reasonable doubt, that Suresh Munshani participated in that conspiracy with knowledge of its unlawful purpose and with intent to aid in the accomplishment of its unlawful purpose?

[For the above question, we quoted the draft jury instruction on page 16.]

3. If your answers to Questions 1 and 2 are "Yes:" Did the Government prove, by a preponderance of the evidence, that an act in furtherance of the conspiracy identified in Question 1 occurred in the Southern District of New York?

[For the above question, we quoted the draft jury instruction on page 20.]

## **II. Conspiracy to Commit Money Laundering**

4. If your answers to Questions 1, 2, and 3, are "Yes:" Did the Government prove, beyond a reasonable doubt, an agreement between two or more persons, which existed between April 11, 2017 and December 31, 2018 to transfer any of the proceeds of the wire fraud conspiracy alleged in Count One?

[For the above question, we quoted the draft jury instruction on p. 17, lines 4-5.]

4. If your answer to 4 is "Yes:" Did the Government prove, beyond a reasonable doubt, that Suresh Munshani unlawfully, knowingly, and intentionally participated in the money laundering conspiracy alleged in Count Two?

[For the above question, we quoted the draft jury instruction on p. 19, lines 1-3.]

4. Did the Government prove that the conspiracy identified in Question 4 would have affected interstate commerce?

[For the above question, we quoted the draft jury instruction on p. 19, line 7.]

## **III. Object of the Money Laundering Conspiracy**

[No change]

Thank you very much for your consideration.

Respectfully Submitted,  
Kari Parks

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**From:** Capozzi, Timothy (USANYS) <Timothy.Capozzi@usdoj.gov>

**Sent:** Monday, February 13, 2023 7:32 PM

**To:** Adam Kern <Adam\_Kern@nysd.uscourts.gov>

**Cc:** Kochevar, Steven (USANYS) <Steven.Kochevar@usdoj.gov>; Kari Parks <kparks@gusraekaplan.com>; Martin Kaplan <mkaplan@gusraekaplan.com>; Mearns, Geoffrey (USANYS) [Contractor] <Geoffrey.Mearns@usdoj.gov>

**Subject:** RE: U.S. v. Munshani, 22cr215

Mr. Kern,

In addition, on paragraph 3(b) of the draft verdict form, we propose replacing "fraudulent origin" with "source, nature, location, ownership, or control."

Thank you,  
Tim & Steven

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**From:** Capozzi, Timothy (USANYS)  
**Sent:** Monday, February 13, 2023 7:08 PM  
**To:** Adam Kern <Adam\_Kern@nysd.uscourts.gov>  
**Cc:** Kochevar, Steven (USANYS) <SKochevar@usa.doj.gov>; Kari Parks <kparks@gusraekaplan.com>; Martin Kaplan <mkaplan@gusraekaplan.com>; Mearns, Geoffrey (USANYS) [Contractor] <GMearns@usa.doj.gov>  
**Subject:** Re: U.S. v. Munshani, 22cr215

Mr. Kern,

The Government respectfully proposes the following changes to the proposed instructions of law to the jury:

- Instruction No. 11:
  - Page 17. In the “The first element” paragraph, the sentence beginning “Specifically” should be edited as follows: “Specifically, the Government charges that the conspirators, having received proceeds from the wire fraud scheme previously described, either agreed to then use bank accounts and bank transfers to transfer more than \$10,000 of those proceeds ~~knowing those proceeds were derived from the fraud~~ or agreed to transfer at least some part of the proceeds of the fraud for the purpose of concealing the ~~fraud~~ their nature, location, source, ownership, or control (even if less than \$10,000).”
  - Page 19: In the last sentence of the “The second element” paragraph, the sentence should be edited as follows: “. . . as I have previously defined those terms, and intentionally, which here means that the defendant, knowing that the proceeds were derived from ~~the wire fraud~~ some form of unlawful activity, either intended to transfer at least \$10,000 of those proceeds or to transfer any amount of the proceeds for the purpose of concealing their source, nature, location, ownership, or control, or both

Also, we noticed a few typographical edits:

- Instruction No. 2, page 5: The second sentence of the first full paragraph should read “Nor should you speculate about why one person or another person whose name you may have heard ~~figured~~ in the evidence is not part of this trial or what his or her situation may be.”
- Instruction No. 4, page 7: The second sentence of the second full paragraph should read “To prevail against the defendant on a given charge . . . .”

Thank you,  
Tim & Steven

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**From:** Adam Kern <Adam\_Kern@nysd.uscourts.gov>  
**Sent:** Monday, February 13, 2023 4:47 PM  
**To:** Kochevar, Steven (USANYS) <SKochevar@usa.doj.gov>; Capozzi, Timothy (USANYS) <TCapozzi@usa.doj.gov>; Kari Parks <kparks@gusraekaplan.com>; Martin Kaplan <mkaplan@gusraekaplan.com>  
**Subject:** U.S. v. Munshani, 22cr215

Counsel,

This is my email so that you have it.

Adam

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